

**INTERNATIONAL COMPETITION POLICY
ADVISORY COMMITTEE**

To The Attorney General And The
Assistant Attorney General For Antitrust

FOR IMMEDIATE RELEASE
MONDAY, FEBRUARY 28, 2000
WWW.USDOJ.GOV/ATR/ICPAC/ICPAC.HTM

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**INTERNATIONAL COMPETITION POLICY ADVISORY COMMITTEE DELIVERS
FINAL REPORT TO ATTORNEY GENERAL RENO
AND ASSISTANT ATTORNEY GENERAL KLEIN**

**Justice Department Advisory Committee Completes Two Year Study of International
Competition Issues**

WASHINGTON, D.C. - The International Competition Policy Advisory Committee presented its Final Report to Attorney General Janet Reno and Assistant Attorney General for Antitrust Joel I. Klein today at a ceremony in Washington, D.C. The exhaustive Advisory Committee Report sets forth recommendations to the Justice Department and competition agencies throughout the world designed to enhance merger enforcement and take governmental friction out of the merger review system; improve cooperation to address private restraints that impede open access to markets; and establish a global initiative to improve overall international transparency and understanding that would promote global competition and consumer welfare.

Specifically, the 300-plus page Final Report includes policy recommendations on cutting edge international antitrust issues such as multijurisdictional merger review, anticartel enforcement and the interface of trade and competition policy.

“These policy recommendations present a broad vision for U.S. international competition

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policy as well as practical and realistic proposals for improving the ability of antitrust enforcement to take account of the challenges posed by globalization through enhancing cooperation, streamlining enforcement, and reducing costly friction in the system,” said Advisory Committee Co-Chair James F. Rill, the former Assistant Attorney General for Antitrust under President Bush. Advisory Committee Co-Chair Paula Stern, a former Chairwoman of the International Trade Commission under Presidents Carter and Reagan, added, “Recognizing that \$3.4 trillion in global merger and acquisition activity occurred in 1999 alone and recognizing that markets extend beyond national borders while law and its enforcement remain national, our Advisory Committee worked to identify new tools, tasks and concepts to address competition issues emerging in the U.S. and overseas. The Report draws a blueprint to use in the short and medium term to increase transparency, deepen cooperation, and encourage compatibility among the proliferating competition systems that exist in the U.S. and abroad.”

The Advisory Committee, founded by Attorney General Reno and Assistant Attorney General Klein in 1997, is the third U.S. advisory committee on antitrust matters and the first-ever on *international* antitrust related matters. It consists of distinguished individuals who represent broad experience and expertise from the U.S. business, industrial relations, academic, economic and legal communities. Since its inception, the Advisory Committee held six public meetings and two sets of public hearings in the fall of 1998 and the spring of 1999. The hearings on November 2-4, 1998, involved 48 expert participants, including senior competition officials from around the world, lawyers, investment bankers, economists and academics from the United States, Australia, Brazil, Canada, the European Union, France, Germany, Japan, Mexico, Spain, and Venezuela. A second set of hearings were conducted on April 22, 1999 and May 17, 1999, and included

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testimony from a number of businesses and trade associations.

“Over the past two years, the Advisory Committee heard from the world’s leading experts on international competition issues,” said Executive Director Merit E. Janow, a professor at Columbia University’s School of International and Public Affairs. “This report builds on their input and provides policy recommendations that reflect the changing nature of the global economy.”

In **multijurisdictional merger review**, the report offers a perspective on ways to bridge substantive differences *between* merger review regimes and identifies the antitrust practices and procedures implemented *within* jurisdictions around the world that could benefit from harmonization and adjustment. The report outlines several steps that can be taken in the short and medium term to facilitate greater compatibility (i.e., convergence) and minimize the risks that can arise from different substantive standards. The report also identifies targeted reform in individual merger regimes through the promotion of *best practices*. These are designed to ensure that jurisdictions examine only those mergers that have a nexus to, and the potential to create appreciable anticompetitive effects within, that jurisdiction, and to further ensure that each jurisdiction refrains from imposing unnecessary burdens during the course of the merger review process while maintaining the tools necessary to identify and remedy anticompetitive transactions.

In **enforcement cooperation and anticartel enforcement**, the report recommends that the United States continue to lead by example in prosecuting international cartels -- using transparent standards that encourage cartel participants to come forward and cooperate with government enforcement efforts -- and imposing serious penalties on their participants. The U.S. antitrust authorities should continue to pursue more and deeper cooperative relations with other

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competition authorities on practical aspects of enforcement.

In **the intersection of trade and competition policy**, the report offers a multipronged approach for addressing anticompetitive business practices by private firms that block access to foreign markets as well as government- initiated or encouraged measures that impede competition. It recommends further development of bilateral agreements with “positive comity” provisions (which allow a nation affected by anticompetitive practices to request that the nation in which the alleged conduct is occurring initiate an appropriate enforcement action) as well as the use of extraterritorial enforcement tools where necessary. Further, the report argues that new multilateral approaches are also needed, although it does not see the WTO as the natural home for all global competition policy initiatives. Instead, it proposes a new Global Competition Initiative for addressing the broad global competition agenda.

A copy of the Advisory Committee report may be downloaded from its website: www.usdoj.gov/atr/icpac/icpac.htm. Those interested in purchasing a hard copy of the report may order it for \$36 through the Government Printing Office (stock number 027-000-01390-2, ISBN 0-16-050290-X) by calling (202) 512-1800, by faxing 512-2250, by writing to the Superintendent of Documents, PO Box 371954, Pittsburgh, PA 15250-7954, or by going to the GPO Access Online bookstore at http://www.access.gpo.gov/su_docs.

For further information about the Advisory Committee Report, contact Executive Director Merit E. Janow at (212) 854-1724 or Andrew J. Shapiro, Advisory Committee Counsel at (202) 353-0012.

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